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Creating Markets Abroad: The case of CDM / JI Projects

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Introduction

According to Kees van Kersbergen and Frans van Waarden, „one of the most remarkable developments in modern societies in the past few decades has been the destabilisation of the traditional governing mechanisms and the advancement of new arrangements for governance.“ (Kersbergen / van Warden 2001: 1). The quote is taken from the introduction of an article in which they outline why shifts in governance form a very challenging, important subject of research. The authors of this paper support this statement. From our point of view, these shifts in governance patterns are an empirical fact with wide ranging implications for policy making in nation states. It is the purpose of this article to introduce the reader to two examples that perfectly illustrate these shifts in governance.

The literature survey that van Kersbergen and van Waarden undertook results in a clustering of the various notions of the term governance. Three of the discourses on governance that they identified are in fact normative discourses on „good governance“ either on the country level (good governance as advocated by the world bank and other international organisations), in the public sector (new public management) or on the corporate level (good corporate governance). Three of the clusters, however, focus on governance with a low level involvement of or even without governments:

1. Within International Relations (Global Governance),
2. Governance in and by networks and
3. Self-regulation.

According to van Kersbergen and van Waarden, more and more international relations scholars assert that international politics should not solely be seen in terms of co-operation between independent nation states. Instead, these scholars argue that patterns of international organisations, regimes, institutions, treaties, and the like emerge which can be seen as new forms of international governance. Our first example is a perfect illustration of this interplay between different policy levels: the creation of a market for emission certificates. The example will focus exclusively on the two mechanisms Joint Implementation and Clean Development Mechanism.

Governance in and by networks refers to a very different understanding of the term governance. More and more researchers concede that the nation state has lost (or better: given up) considerable steering capacity. As a consequence, networks of public and non-public actors were established. These policy networks contribute both to policy formulation and policy implementation. Our second example will introduce such a policy network: the Actor-oriented Discussion Process “Sinks and CDM / JI” that the Wuppertal Institute conducted during 2002 and 2003. The authors’ interpretation of this example: it is an attempt by a non-state actor (the Wuppertal Institute) to establish a policy network for the facilitation of policy formulation (by the German government and the EU respectively).

Joint Implementation and Clean Development Mechanism: a textbook example for policy implementation in a multi governance system

Both Clean Development Mechanism and Joint Implementation are rooted in the Kyoto Protocol. They are subsumed under the heading “flexible mechanisms” because they allow the Parties to the Kyoto Protocol a certain degree of flexibility with respect to achieving compliance with their quantified emission reduction and limitation commitment. However, Joint Implementation and Clean Development Mechanism are more than two means of cooperation between nation states: both instruments envisage the inclusion of private entities and ultimately the establishment of markets for emission certificates.

The Supply Side of Joint Implementation and Clean Development Mechanism

Joint Implementation and Clean Development Mechanism are based on the same idea: private entities are allowed to register certain types of investment projects as JI / CDM projects. The minimum requirement for these projects is that they must be investments into climate friendly means of production. Examples of such projects are the erection of wind parks or the afforestation of a piece of land. If the registered JI or CDM project meets all the requirements that are formulated under the umbrella of the UN Framework Convention on Climate Change (Kyoto-Protocol, Bonn Agreement, Marrakech Accords, further guidelines), emission

certificates are issued to the project developer. In the case of JI, these are called Emission Reduction Units (ERU), in the case of the CDM, they are called Certified Emission Reductions (CER). The amount of issued emission certificates is derived from the amount of greenhouse gas emission reductions or the amount of greenhouse gases that were removed from the atmosphere.

It is important to note that there are significant differences between JI and CDM with respect to implementation as well as scope. Investment projects in so-called Annex-B-Parties (i.e. all states that are Parties to the Kyoto Protocol and that are contained in Annex B of the protocol) are eligible for JI; projects in all other parties to the Kyoto Protocol are eligible for CDM. The implementation of the Clean Development Mechanism is significantly more advanced than that of Joint Implementation. The CDM exists on a provisional legal basis; JI does not, it is dependent on the entry into force of the Kyoto Protocol. Furthermore, the Kyoto Protocol stipulates that for JI only emission reductions (removals) occurring after 2008 can be included in the calculation of the amount of emission certificates to be issued. It goes without saying that the emission certificates will be issued in such a way that the private entity that registered its investment project possesses a bundle of rights with respect to the issued emission certificates. This bundle of rights is extremely complex; in short, it includes the right to sell the emission certificates to other entities.

Thus, a supply of emission certificates will develop under the framework of the UN Convention on Climate Change. As a result, the supply side of the future market for emission certificates is entirely regulated on the international level. This novelty must be put in the right perspective: this is the first time international environmental law contains provisions for private entities and it is for the first time that a commodity is generated through international environmental law.

The Demand Side of Joint Implementation

The supply side is only one side of the coin. In order to have a functioning market, there must also be a demand side. As explained in this paragraph, the demand side will be divided into at least three different segments, cp. figure 1. The three segments are

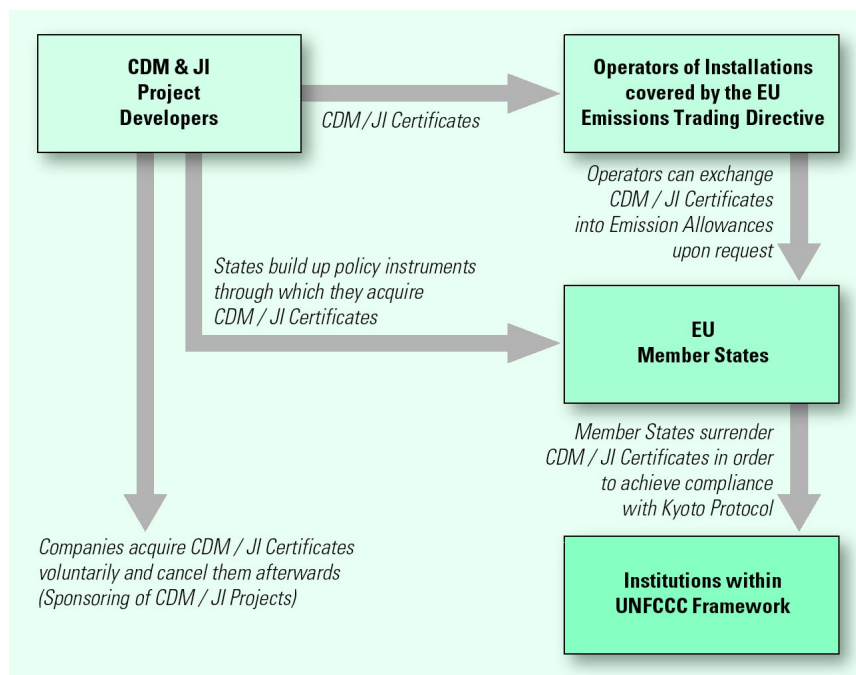


Figure 1: Three Segments of Demand for Emission Certificates from CDM / JI Projects

- Demand generated at the national level,
- Demand generated through private entities that wish to purchase on a voluntary basis or because they wish to sponsor particular CDM / JI projects.
- Demand generated within the frame of EU emission allowance trading.

These three segments are described in detail in the following.

The segment of demand that is already developing rapidly is the one generated by nation states: various EU member states (e.g. Sweden, Finland, Austria, Italy) build up or plan to build up tenders for purchasing emission certificates from JI and CDM projects. The most well known example of these tenders is Carboncredits.nl – an initiative by the Dutch government (www.carboncredits.nl). So far, there have been three tenders that purchased emission certificates from JI and one that focuses on CDM projects. Germany is pursuing a slightly different strategy. Here, a fund is planned by the KfW-Group that will be filled partially with government money (KfW Bankengruppe 2003). In all these cases, the governments of nation states eventually surrender the purchased JI and CDM emission certificates to the authorities that assess their compliance with the Kyoto Protocol.

The second segment of demand is also currently developing – even though on a much smaller scale. Various companies as well as other non-public entities pur-

chase emission certificates from CDM / JI projects on a voluntary basis. For example, the International Automobile Association purchases Verified Emission Reductions (VER) from a project activity in Mexico in order to compensate the greenhouse gas emissions from the Formula 1 Races it organises (Langrock / Sterk / Wiehler 2003). BP has announced that it wishes to use JI and CDM in order to compensate significant amounts of its own emissions (BP 2002). As figure 1 illustrates, the main difference between the first and the second segment of demand is that in the latter, the CDM and JI emission certificates are not used by governments in order to comply with the obligations in the Kyoto Protocol.

The third segment of demand will emerge once the link between EU-wide Emission Allowance Trading and CDM / JI projects is established. Negotiations on a corresponding EU-directive regulating the access of emission certificates from the project-based mechanisms CDM / JI into the EU emissions trading system have started recently. According to the proposal for a Directive “amending the Directive establishing a scheme for greenhouse gas emission allowance trading within the Community, in respect of the Kyoto Protocol's project mechanisms” (European Commission 2003), operators of installations included into EU Emission Allowance Trading can on request hand in CDM / JI-certificates and receive Emission Allowances in exchange. The EU member states themselves surrender these CDM / JI-certificates to the authorities of the climate regime that assess compliance with the Kyoto-Protocol. It must be said that the negotiations on this linking directive have only just begun. It is not yet clear whether the law making will be finished before the end of the legislative period of the European Parliament in June 2004. If adoption of this directive cannot be achieved before, a considerable delay must be expected. It is furthermore highly controversial among the different member states of the EU when the conversion of emission certificates from CDM / JI projects into EU emission allowances shall begin. Two options are being discussed: 1.1.2005 or 1.1.2008.

As a result, the demand side of the market for emission certificates from CDM / JI projects will develop due to European policy making, action by EU Member States as well as voluntary action by non-public entities. The creation of the market for emission certificates from CDM / JI projects perfectly illustrates the shift in governance that Kersbergen and van Waarden diagnosed. In terms of history of

international relations, this market is a novelty that is only made possible by an astonishing evolution of the international law and by a remarkable interplay between very different levels of policy making.

The Actor-oriented Discussion Process „Sinks and CDM / JI“

„From the viewpoint of effective climate policy, those sink-projects are at best creative carbon accounting.... That is why the Non-Governmental Organisations reject the conversion of emission certificates from CDM / JI sink-projects into emission allowances as well as the purchasing of emission certificates from sink CDM / JI projects by the Federal Government of Germany“ (Langrock / Sterk / Wiehler 2003: 10, Translation: TL). This statement of the German non-governmental organisations ‘Greenpeace Germany’ and ‘Forum Umwelt & Entwicklung’ contrasts sharply with that of various project developers who assert that “CDM / JI sink-projects should by no means be excluded from EU Emissions Allowance Trading” (Langrock / Sterk / Wiehler 2003: 13, Translation: TL). The two statements neatly illustrate the controversy that surrounds the issue of sink-projects within JI and CDM. It is probably right to say that the “sinks-controversy” has been among the most hotly debated issues in the context of the implementation of the Kyoto-Protocol.

“Sink-projects” are projects that reduce carbon levels in the atmosphere by removing carbon dioxide – usually via the process of photosynthesis and therefore by increased and stable biomass production. Typical sink-projects are the establishment of additional forest acreage or measures to boost the amount of biomass per area unit in existing forest stands. Those projects are partly eligible under the project-based flexible mechanisms CDM and JI. Detailed provisions for sink-projects under the CDM are still being negotiated at the next Conference of the Parties to the Framework Convention on Climate Change (UNFCCC) in December 2003. It is therefore highly likely that the supply side of emission certificates from CDM / JI sink-projects will develop. Now, the controversy is about the creation of demand for these emission certificates.

In 2002, the Wuppertal Institute initiated a multi-stakeholder dialogue that specifically focused on sink-projects and CDM / JI. The main objective was to prepare political decision-making by German and European policy makers. The institute as a neutral party sought to bring representatives of all relevant actor groups together. Apart from the NGOs, the Wuppertal Institute had invited project developers, certifiers, scholars, investors and representatives from the federal government as well as various implementing agencies, cp. figure 2. In order to keep the structure simple, the process solely intended to identify consensus / dissent of relevant national stakeholder groups.

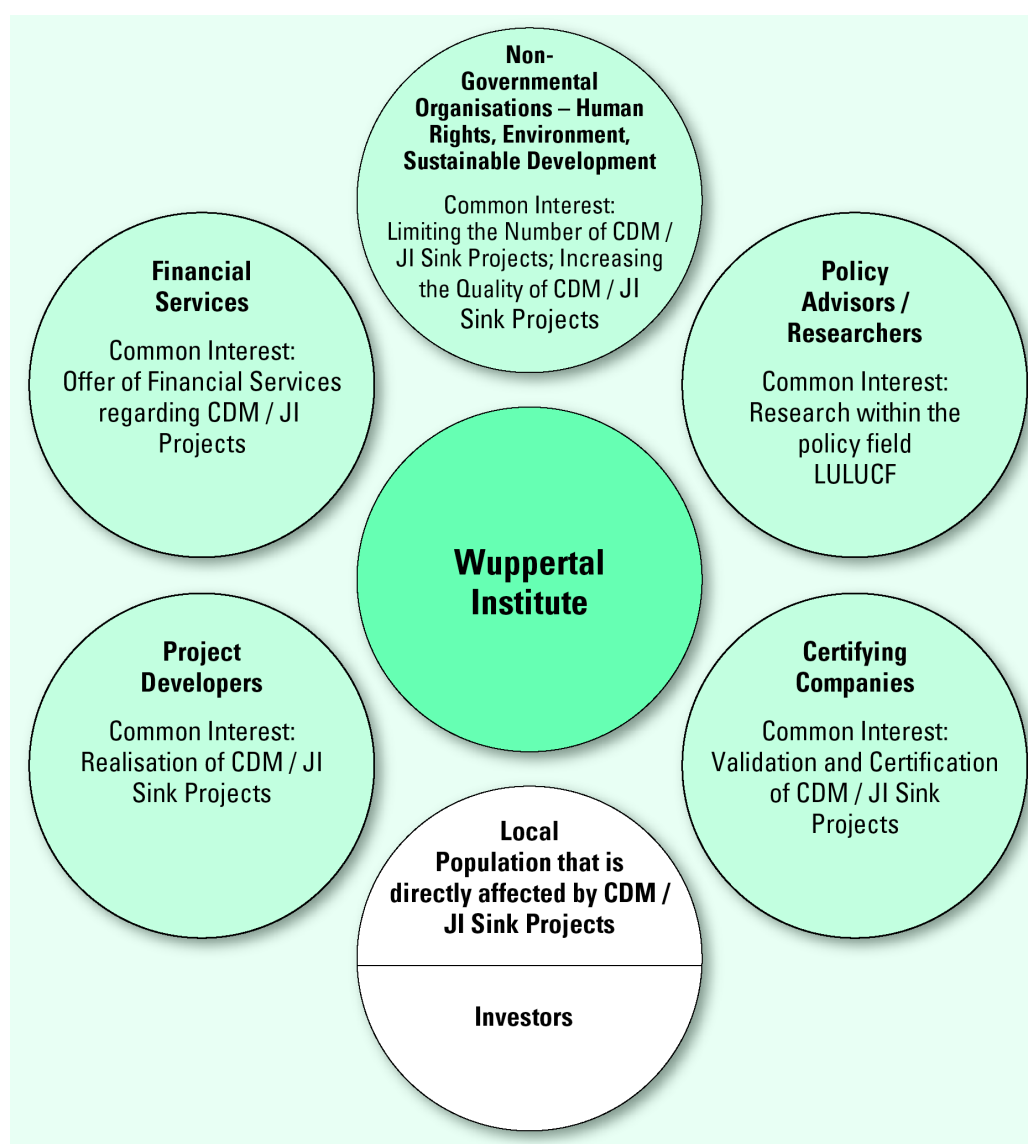


Figure 2: Participating Actors

Right at the beginning, it became evident that the participants were split into two separated blocks over a single essential: „Do we generally want to use sinks, regardless what is decided by the policy-makers, or do we not?“ This divide eventually led to the leaving of the „sink-opposition“ represented by the NGOs after the first meeting. As a result, the objective to facilitate a constructive confrontation of conflicting positions could not be maintained. However, looking closely at the argumentative „demarcation line“ of the two blocks of proponents and opponents, it is worth noticing that the discussion is generally led on two different levels that are often mixed or cross-linked:

- On the broad level, the general reasonability of „sink“ measures within the climate regime is discussed. The underlying argument against considering sinks within the flexible mechanisms is that those measures will reduce the efforts of emission reductions at the sources – it entails the idea of scarce resources that are distributed by the market function „price“.
- On the project level, the issues are fairly technical: leakage, permanence, accounting, monitoring and socio-economic / ecological impacts. The overall discussion is a purely political and economic one, while on the project level the discussion tends to be more technical.

Precisely these rather technical discussions came to the surface after the NGOs had left and the process saw the remaining actor groups mostly discussing practical issues of implementation. Those meetings helped to develop a more precise and differentiated perception of sink project activities under CDM / JI.

The process examined, for example, the eligibility criteria for sink projects under CDM and JI, respectively. The emphasis was on the criterion „project category“. For JI, the categories afforestation, reforestation, forest management, revegetation, grassland management and cropland management are eligible, whereas for the CDM only afforestation and reforestation qualify. The discussion process elaborated on these categories, assessed potentially eligible project types and discussed concrete project examples. During the discussion process, the participants also looked at the requirements concerning the ecological and socio-economic impacts of a project. Finally, the participants examined at positive socio-economic and ecological side effects of sink projects, which are of high significance for the acceptance of sink projects. During the discussion process, it

became visible that there is a considerable difference between the various types of projects in this regard.

As moderators of this discussion process we must concede that we did not reach our original objective: to explore consensus between the conflicting positions. Yet the discussion process may have led to a better understanding of some technical issues. In October 2003, the final report on the discussion process was published. While the report is mostly in German, the English executive summary provides a good overview of the most important results of the process. It is available for downloading at: <http://www.wupperinst.org/Sites/Projects/climate/1078-e.html>

This example shows that there are limits to Governance in and by networks. Obviously, it is not possible to settle conflicting positions through policy networks outside the conventional policy making process. Yet, the example has shown that such networks can generate knowledge that ultimately eases political decision-making. Such Multi-Stakeholder dialogues are increasingly being used in Germany and Europe.

Summary

Traditional ways of governing society, politics and economy are giving way to new arrangements of governance. This shift in governance patterns occurs both in the private and the public sector and involves all levels from local to global levels within these spheres. The two examples presented in this paper illustrate that the term governance has in fact very different notions: the case of the CDM and JI market illustrates how new policy instruments can be implemented through the interplay between very different policy levels. The Actor-oriented Discussion Process “Sinks and CDM / JI” exemplifies a new tool for the preparation of policy making.

It must be said that multi level governance patterns are a prerequisite for the complex structures of the EU as a transnational institution. In fact, European policy making cannot be understood without this general set-up. In this respect, the examples referred to in the text could be seen as quite EU-specific. On the other

hand, working within this framework brings about the import of new forms of governance such as governing in and by networks into national systems. As the examples have shown for Germany, new policy instruments have the potential to facilitate political decision-making. The difficulties the discussion process brought to the light only underline that efficient use of these instruments is still at the beginning.

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Further Information

Information on the project "JKO Development phase 2002-2004" is available at
<http://www.wupperinst.org/Sites/Projects/climate/c2.html>

For more information on the Actor-oriented Discussion Process „Sinks and CDM / JI“ see
<http://www.wupperinst.org/Sites/Projects/climate/1078-e.html>